

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

1	UNITED STATES OF AMERICA,	}	No. 21 CR 373	
2				
3				
4				
5	vs.	}	Chicago, Illinois	
6	KAROL J. CHWIESUIK,			
7	Defendant.			
8		}	June 11, 2021	
9				12:04 p.m.

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HON. GABRIEL A. FUENTES, MAGISTRATE JUDGE

APPEARANCES:

10	For the Government:	MR. JOHN D. COOKE
11		United States Attorney's Office,
12		219 South Dearborn Street, Room 500,
13		Chicago, Illinois 60604
14	For the Defendant:	MR. TIMOTHY M. GRACE
15		Gottreich, Grace & Thompson,
16		311 West Superior Street, Suite 215,
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PATRICK J. MULLEN  
Official Court Reporter  
United States District Court  
219 South Dearborn Street, Room 1412  
Chicago, Illinois 60604  
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1 (Telephonic proceedings on the record.)

2 THE COURT: Mr. Chwiesuik, just by saying yes or no,  
3 do you consent to a telephonic initial appearance today under  
4 the CARES Act?

5 THE DEFENDANT: Yes. This is Karol Chwiesuik. Yes, I  
6 do consent to continue.

7 THE COURT: Okay. Let me just first ask you this,  
8 Mr. Grace. Have you had an adequate or, I should say, a  
9 reasonable opportunity to consult with your client about the  
10 nature of the initial appearance proceeding today?

11 MR. GRACE: Yes, I have, Your Honor.

12 THE COURT: And have you either provided the affidavit  
13 of removal and the attached complaint and arrest warrant to  
14 your client or have you had a chance to at least discuss and go  
15 over it with him?

16 MR. GRACE: I have, Your Honor.

17 THE COURT: All right. So, Mr. Chwiesuik, in today's  
18 initial appearance, what we're doing, it's your first  
19 appearance upon arrest in this case, and the Court is required  
20 under Rule 5 of the criminal procedure rules to advise you of a  
21 number of things.

22 So let me just ask, Mr. Cooke, if you can make a  
23 record for the Court, please, as to when Mr. Chwiesuik was  
24 arrested.

25 MR. COOKE: Mr. Chwiesuik was arrested at

1 approximately 8:00 a.m. today, Your Honor.

2 THE COURT: Thank you. So in the initial appearance  
3 Rule 5 requires you to get your appearance before a magistrate  
4 judge without unnecessary delay, and that's why I'm here. So  
5 I'll advise you of a number of things, first of all, the nature  
6 of the charge that is present here.

7 You are charged according to the complaint that's  
8 attached to the removal affidavit with unlawful entry on  
9 restricted buildings or grounds in violation of Title 18 of the  
10 U.S. Code, section 1752(a)(1) and (2), and violent entry,  
11 disorderly conduct, and other offenses on U.S. Capitol grounds  
12 in violation of Title 40 of the U.S. Code, sections  
13 5104(e)(2)(c)(i), or little Roman (i), (d) and (g). Okay?  
14 That's what you're charged with.

15 If you review the complaint affidavit out of the  
16 District of Columbia, you'll see that those charged offenses  
17 relate to your alleged presence on the grounds and the facility  
18 of the United States Capitol on January 6 of 2021, first of  
19 all.

20 So, Mr. Cooke, under Rule 58 which covers misdemeanors  
21 we're required to go through certain things, and I just want to  
22 confirm with you that the charges today are misdemeanors. Are  
23 they, or have I misunderstood somehow?

24 MR. COOKE: That's correct, Your Honor. They are  
25 misdemeanors.

1 THE COURT: All right. So I'd like you to state,  
2 Mr. Cooke, for our record what the minimum and maximum  
3 penalties are for these charged offenses as we're required to  
4 do under Rule 50(a)(2)(a).

5 MR. COOKE: Your Honor, the two offenses with which  
6 the defendant is charged under section 1752 of Title 18 carry  
7 the same maximum penalties, and they are not more than one year  
8 in prison, a fine of not more than \$100,000, and a maximum term  
9 of supervised release of one year.

10 The three offenses charged against the defendant under  
11 section 5104 of Title 40 also carry the same maximum penalties.  
12 They are not more than six months in prison, a fine of not more  
13 than \$5,000, and a term of supervised release is not authorized  
14 for those three offenses.

15 THE COURT: All right. Are there any minimum  
16 penalties required under either of the charged offenses or  
17 under any of them?

18 MR. COOKE: There are no mandatory minimums, Your  
19 Honor.

20 THE COURT: All right. Is there also a special  
21 assessment that is associated with these offenses?

22 MR. COOKE: There is not, Your Honor.

23 THE COURT: All right. So that's another item we  
24 needed to tell you about that the Court with the assistance of  
25 Government's counsel has done, Mr. Chwiesuik. So I now want to

1 move on to your right to counsel. So you have the right, sir,  
2 to retain counsel, and if you cannot retain your own counsel,  
3 you have the right to ask the Court to have counsel appointed  
4 for you.

5 Now I'll just ask Mr. Grace. Mr. Grace, are you here  
6 as retained counsel?

7 MR. GRACE: I am, Your Honor.

8 THE COURT: All right. So the record will reflect,  
9 Mr. Chwiesuik, that you have retained counsel today. Mr. Grace  
10 is appearing to represent you today, so I'm required to tell  
11 you that. You also have a right to request the appointment of  
12 counsel if you're unable -- excuse me. I'm going over the  
13 wrong one.

14 You have a right not to make a statement,  
15 Mr. Chwiesuik. You have a right to not make a statement, and  
16 any statement that you may already have made may be used  
17 against you. So I'm required to tell you that.

18 I'm also required to tell you that you have the right  
19 to trial, judgment, and sentencing before a district judge,  
20 okay, unless you consent to trial, judgment, and sentencing  
21 before a magistrate judge. Okay? So I'm required to tell you  
22 that.

23 You also have a right to a jury trial before either a  
24 magistrate judge or a district judge. Also in this case, I  
25 want to tell you that you have a right to a preliminary

1 examination at this point under Rule 5.1. So preliminary  
2 examination, it's a limited purpose hearing. It's for the  
3 purpose of determining whether there's probable cause to  
4 support the Government's assertion that this offense happened  
5 and that you committed it. The Government would present  
6 evidence. It can present hearsay evidence, meaning  
7 out-of-court statements by witnesses or statements by witnesses  
8 containing out-of-court statements that are offered for their  
9 truth, and your counsel would have the opportunity at a  
10 preliminary hearing to cross-examine those witnesses.

11 A couple of things with regard to a preliminary  
12 examination that I'm required to tell you, and that is you can  
13 actually waive your right to have that preliminary hearing if  
14 you wish to do so. If you wish to have that preliminary  
15 hearing in this district or in the District of Columbia, you  
16 have the ability to have that done in the district which you  
17 select. So that's what I'll tell you about your preliminary  
18 examination rights.

19 Furthermore, you've got the ability to ask, if you're  
20 not a U.S. citizen -- and all defendants get this advice in  
21 initial appearances -- if you're not a U.S. citizen, you may  
22 request that an attorney for the Government or a federal law  
23 enforcement official notify a consul officer from the  
24 defendant's country of nationality, from your country of  
25 nationality, that you've been arrested. But even if you don't

1 request it, a treaty or other international agreement might  
2 require consul notification. So I'm required to tell you that.

3 I will also tell you out of an abundance of caution  
4 under Rule 5(f) that the Court will confirm for you the  
5 obligation of the Government to disclose to you any information  
6 that is favorable to you that is material to guilt or  
7 punishment, and the failure to do that may result in various  
8 consequences up to and including dismissal of the charges and  
9 disciplinary action against the prosecution.

10 So I believe those are the matters that we need to  
11 cover under Rule 5 and Rule 58. Anything else on behalf of the  
12 Government in terms of advice to the defendant at this point?

13 MR. COOKE: No, Your Honor.

14 THE COURT: All right. On behalf of the defense? I'm  
15 going to talk about the release-slash-detention issue in a  
16 minute.

17 MR. GRACE: Not on that, Your Honor. We're good.

18 THE COURT: Okay. So let's talk about the  
19 circumstances that would involve your release from custody in  
20 this case while it is pending, in other words, circumstances  
21 under which you may obtain pretrial release.

22 Does the Government have a position on detention at  
23 this time?

24 MR. COOKE: Your Honor, the parties have discussed a  
25 release plan for the defendant and have submitted to Your Honor

1 some proposed conditions of release, I believe. Judge, did you  
2 receive those forms from me?

3 THE COURT: I am looking at them. I just wanted to  
4 have you make your record as to what the Government's view is.

5 MR. COOKE: Yeah, the Government's position, Judge, is  
6 that the defendant should be released based upon those  
7 conditions that the parties agreed to in the paperwork  
8 submitted to the Court. There is one disagreement, though,  
9 about the terms of conditions. The Government believes, in  
10 addition to the terms of conditions that we proposed, that the  
11 defendant shall not possess any firearm or destructive device  
12 while under supervision, that he surrender his FOID card, and  
13 that any residence he live in be firearm-free.

14 THE COURT: Okay. So there's disagreement as to those  
15 two proposed conditions. I want to hear from Mr. Grace about  
16 that and about any other conditions, but before I do, I want to  
17 ask you, Mr. Cooke, about another condition. Okay?

18 Under additional condition 6 very often the Court  
19 releases persons into the custody of a third party custodian to  
20 make sure that that person supervises the defendant, uses every  
21 effort to assure appearance in court, and notifies the Court if  
22 the defendant violates a condition of release. Here there's no  
23 third party custodian proposed.

24 Just a couple of days ago, the Government had a  
25 matter, United States versus Kulas, in which a young person



1 from the north suburbs was charged with similar offenses, and  
2 the requirement was that he be placed in the custody of his  
3 mother to make sure that all those things happened. Why hasn't  
4 that condition been proposed here?

5 MR. COOKE: Your Honor, the Government feels that the  
6 conditions that we did propose were sufficient to assure his  
7 appearance. The Government wouldn't be opposed to adding a  
8 third party custodian if the Court thinks that's appropriate  
9 and the defendant has someone who can serve in that role.

10 THE COURT: Why don't we let Mr. Grace address that,  
11 because I'm concerned about treating similarly situated  
12 defendants in a similar way. I don't immediately see why there  
13 shouldn't be a third party custodian here if we thought that  
14 one was necessary in the Kulas matter, but why don't you tell  
15 me about that, Mr. Grace.

16 MR. GRACE: Judge, let me give you a little  
17 information about Karol. Okay? He's 29 years old. He was  
18 born on the northwest side of Chicago. He attended high school  
19 at Notre Dame College Prep in Niles. He graduated in 2010. He  
20 then matriculated on to the University of Missouri where he  
21 received two degrees, a Bachelor of Arts Degree in political  
22 science and also one in Russian language. He actually took the  
23 LSAP but decided law wasn't the way he wanted to go.

24 He came back to the Chicagoland area, and he applied  
25 for and was accepted into the Cook County Sheriff's Department

1 where he served as a Cook County deputy for two years. In  
2 2018, the Chicago Police Department hired him, and he was  
3 appointed as a police officer in December of 2018. He lives in  
4 the Harlem and Higgins area with his parents who, by the way,  
5 have no weapons in the house. The only weapons there in the  
6 house are owned by Karol. He's never been arrested. He has no  
7 background.

8 Judge, he was up until three days ago assigned to the  
9 11th District of the Chicago Police Department. He worked on  
10 the watch which is patrol. That's on the west side of Chicago.  
11 During his short time period as a Chicago police officer, he  
12 has actually been named police officer of the month in 2019.  
13 He's retrieved a crime reduction award in 2019. He's also had  
14 many honorable mentions, and I believe he's on the list for an  
15 accommodation that's coming down the line.

16 So, Judge, he's not married and he has no children.  
17 He has employment. I don't believe there are any allegations  
18 of violence that we're going to hear about. So I believe that  
19 Karol is someone who does not need to have a supervisory person  
20 over him. I do understand the Court's concern regarding, you  
21 know, equally protecting and treating people the same, but  
22 that's why I agree with the Government that he should not have  
23 a third party.

24 THE COURT: All right. I'm considering all of that,  
25 and what I'm going to do, despite the concern I'm expressing

1 that similarly situated persons be treated similarly, despite  
2 the fact that there appear to be parents living in the home, I  
3 think if I heard you right, with your client, it seems to me  
4 one of them could step forward and be a third party custodian.

5 I'm going to ask pretrial services to provide the  
6 Court with a post-detention hearing report in which pretrial  
7 services addresses that issue and expresses to the Court its  
8 view as to whether a custodianship should be added to this case  
9 because I think their input is important and I'd like to hear  
10 it.

11 But based on the agreement of the parties today on the  
12 conditions of release, I'm going to respect that agreement for  
13 today's purposes. Then if we need to address custodianship  
14 later, we'll be able to do that.

15 Any objection to that, Mr. Cooke, on behalf of the  
16 Government?

17 MR. COOKE: No, Your Honor.

18 THE COURT: Mr. Grace, on behalf of Mr. Chwiesuik, I  
19 know you've stated your client's opposition to custodianship  
20 generally at this point, but anything further on that,  
21 Mr. Grace?

22 MR. GRACE: No, Judge, we have nothing further.

23 THE COURT: Very well. So let's address this issue of  
24 firearms. I'll ask the Government to tell me why it wishes to  
25 have him be in a place where there's no firearms in the home

1 and why he should not unlawfully use or -- I'm looking at the  
2 condition -- possess a firearm, destructive device, or other  
3 dangerous weapon, and then we'll hear from Mr. Grace on that.

4 MR. COOKE: Judge, the Government's position arising  
5 out of the allegations in the complaint against the defendant,  
6 these are serious and troubling allegations, although they are  
7 charged as misdemeanor offenses. As the complaint alleges, the  
8 defendant traveled from Chicago to Washington, D.C., to  
9 participate in protests that were planned to take place in  
10 Washington.

11 Two days before the riot on January 6th of 2021, as  
12 alleged in the complaint, he's texting messages with an  
13 associate of his who's referred to as "subscriber" in the  
14 complaint, and the subscriber refers to unsuccessful lawsuits  
15 challenging the integrity of the election in November of 2021.  
16 In response to that text message, the defendant is alleged to  
17 have written, quote, didn't read, busy planning how to fuck up  
18 commies, end quote. That was three days before January 6th.

19 Then on January 6th, as the evidence in the complaint  
20 shows, the defendant is at the Capitol and has joined a mob and  
21 breached the Capitol, entered the Capitol against the law, and  
22 gotten so far as the interior of a U.S. Senator's office. It's  
23 very disturbing conduct, Your Honor, and that type of behavior  
24 is especially troubling when it's joined with the possession of  
25 a firearm. That is why, that is the main reason we think he

1     should give up his firearms.

2             THE COURT: Let me ask you this question. Are you  
3     proffering that Mr. Chwiesuik possessed his service firearm or  
4     any other firearm while on Capitol grounds on January 6th?

5             MR. COOKE: I am not, Judge.

6             THE COURT: Okay. Do you know, Mr. Cooke, and can you  
7     tell me Mr. Chwiesuik's -- and Mr. Grace can address this, too,  
8     but what can you tell me about Mr. Chwiesuik's current  
9     employment status with the police department? Mr. Grace  
10    mentioned he's been in the 11th District assignment until three  
11    days ago. What's going on with his employment and firearm  
12    possession status with the police department now?

13            MR. COOKE: My understanding, Judge, is that the  
14    defendant was moved from patrol duty to desk duty recently and  
15    that he no longer has the power to make arrests and is actually  
16    not permitted to bring his firearm to work.

17            THE COURT: All right. Let me turn this over to  
18    Mr. Grace. Mr. Grace, I do want you to remember to add any  
19    additional information you have about his current status  
20    concerning the firearm in your client's official capacity. I  
21    think the word that's sometimes used is "stripped." Has he  
22    been stripped, or what's his status? So tell me why you don't  
23    think these conditions ought to be added to the release order  
24    and the additional information I'm looking for.

25            MR. GRACE: I understand, Judge. So let's talk about

1 what his status is. The Chicago Police Department through the  
2 internal affairs division, Judge, I spend a lot of time with.  
3 I'm a Fraternal Order of Police attorney, so I kind of  
4 unfortunately know a fair amount of these regulations.

5           So he has been stripped of his police powers, meaning  
6 he has no right to make arrests, he has no right to go out on  
7 the street and act as a law enforcement officer. But due to  
8 the fact that he also has contract rights through the  
9 collective bargaining agreement, the Chicago Police Department  
10 can't just fire him. Okay? He is right now fit for duty, and  
11 pending a hearing or a determination by the powers that be at  
12 the Bureau of Internal Affairs, he may or may not be suspended.  
13 He may or may not get terminated from his position. We don't  
14 know what will happen. So right now because of that he is fit  
15 for duty, and the police department put him in an area that is  
16 commonly referred to as the call-back unit. Lots of police  
17 officers are there awaiting disciplinary decisions.

18           So once a court of competent jurisdiction, which this  
19 Court certainly is, makes a determination that a condition of  
20 his bond is that he cannot possess a firearm, he then puts  
21 himself into a position where he is not fit for duty. It  
22 wouldn't be any different, Judge, if he lost his driver's  
23 license. Okay? Because he cannot possess a firearm, because  
24 he cannot drive a vehicle, he is then not fit for duty.

25           So Karol's response to the police department is:

1 Well, you better at least pay me. Let me keep my health care.  
2 Let me continue to accrue pension benefits.

3 And the department's response is: Well, no, we don't  
4 have to because you're not fit for duty. We couldn't even put  
5 you back on the streets if we wanted to.

6 THE COURT: Let me interrupt you.

7 MR. GRACE: So if you --

8 THE COURT: Let me interrupt you for a second.

9 MR. GRACE: Go ahead.

10 THE COURT: If that course of events occurred, doesn't  
11 he have contract rights to either file a grievance or to oppose  
12 that kind of determination and that kind of adverse action  
13 against his employment?

14 MR. GRACE: He has a right to fight or to oppose  
15 whatever the ultimate discipline is, but right now the police  
16 department says: We don't control what Judge Fuentes orders.  
17 Okay? You are not fit for duty. We couldn't put you back on  
18 the street if we wanted to. Your problems right now aren't  
19 with us. It's with the court system or whoever took away your  
20 gun.

21 For instance, a lot of officers lose their FOID cards  
22 because they forget to renew it, and the officers get placed  
23 into a non-paid status because they're unfit for duty and  
24 there's no grievance I can file. It goes to -- I have to go to  
25 IFP to get his FOID card reinstated, and then when the FOID

1 card is reinstated I bring it over to the Bureau of Internal  
2 Affairs and say: Hey, here, now he's fit for duty.

3 So I hope I answered your question. I tried to.

4 THE COURT: No, I appreciate it. I do think I have  
5 another follow-up for you, though. Mr. Cooke said that the  
6 police department's current stance toward your client is that  
7 not only is he assigned to desk duty and he's not on patrol  
8 duties, not really on the street, therefore, but he's not  
9 permitted to bring his firearm to work. Is that -- can you  
10 confirm that, Mr. Grace, or do you disagree with it?

11 MR. GRACE: No, I agree with that assessment. Right  
12 now, the Chicago Police Department is saying to Karol: You are  
13 not allowed to carry a weapon as a law enforcement officer.

14 So can Karol have a weapon at his house? Can Karol,  
15 if he were to get the proper credentials in Illinois, get a  
16 concealed carry license? Can he do those things? Absolutely.  
17 But CPD is saying -- as I said, they've taken his badge.  
18 They've taken his identification. They've given him new  
19 identification that's showing as just like a civilian employee,  
20 and they're telling him he cannot bring a weapon into the  
21 building, just like you or I could not bring a weapon into  
22 like, you know, headquarters or the 11th District. So again, I  
23 hope that answers your question.

24 THE COURT: Oh, it does. I want to be sensitive to  
25 his circumstances, but at the same time I want to treat



1 similarly situated people similarly. I've done a little bit of  
2 research into how some of these other cases have been handled  
3 in other jurisdictions. One of them is the case of United  
4 States versus Robertson. That's in the Western District of  
5 Virginia. That involves a Virginia officer from the town of  
6 Rocky Mount who was charged with similar offenses stemming from  
7 January 6th. I actually reviewed the release order entered in  
8 his case. I noted a couple of things. It did include a  
9 condition that he not possess a firearm, destructive device, or  
10 other weapon, and I'm going to find that I will require that  
11 here in order to effect release as far as Mr. Chwiesuik is  
12 concerned.

13 If there is some other collateral consequence to that  
14 that somehow makes it an inappropriate condition of release,  
15 that's something that, Mr. Grace, you can bring to the Court's  
16 attention. It would be new information, not currently known to  
17 you now. So I am going to require that condition.

18 The other thing --

19 MR. GRACE: Your Honor, not to --

20 THE COURT: Well, hold on. Hold on.

21 MR. GRACE: Yes, Judge. I'm sorry.

22 THE COURT: I'll give you a chance in a second.

23 MR. GRACE: Sure.

24 THE COURT: The other thing that I noted in the  
25 conditions is the amount of the unsecured bond for Officer

1 Robertson was \$15,000. It was unsecured, and an unsecured bond  
2 here has been proposed in the amount of 4500. That proposal  
3 has been made in other cases. Mr. Kulas, I think, was a \$4500  
4 bond. I've had another matter in this district where the  
5 amount that I unilaterally suggested should be posted -- not  
6 posted, but the face amount of the bond was 10,000. So I'm a  
7 little concerned at 4500.

8 I understand they're misdemeanors. I also understand  
9 the nature of the charges actually are very serious in my view.  
10 That's why I imposed 10,000 in the other case. Mr. Grace, I'm  
11 also concerned that to the degree that your client is a sworn  
12 law enforcement officer and yet is accused of the kind of  
13 conduct that is set forth in the complaint with a great deal of  
14 specificity, that suggests a greater concern for the Court  
15 than, you know, somebody in his 20s who's going to be in the  
16 custody of his mother.

17 So I mention that to you because I wanted to give you  
18 the chance to react to that and also to what we said about the  
19 firearm.

20 MR. GRACE: Your Honor, I don't mean to interrupt you.  
21 It's just so hard with these new proceedings. Obviously if we  
22 were face to face, I would know the proper time that you would  
23 give me a moment to talk. So I don't want you to think I'm  
24 being disrespectful.

25 THE COURT: Oh, no, I don't think that at all. I

1 don't think that at all. Go ahead.

2 MR. GRACE: Okay. So I would just ask the Court. I  
3 get your understanding of the Rocky Mount case that you have.  
4 I have not reviewed that case, but I don't know what the  
5 hardship was on that police officer. I don't know if his  
6 collective bargaining agreement says: Do you know what? Even  
7 though you're under indictment and there is a condition that  
8 you not possess a weapon, whether you still have due process  
9 rights and you have the right to remain getting paid and what  
10 other status they have.

11 So I'd just ask the Court. You know, I don't know if  
12 we are comparing apples to apples here because the hardship is  
13 strong on my client. Not having the right to possess a weapon,  
14 the hardship is one in which he is not going to be paid, he's  
15 not going to get health care, and he is unfortunately not going  
16 to accrue pension benefits.

17 THE COURT: Well, what's your response to what I told  
18 you about that? I have a concern that you don't really know  
19 that right now because your client has an ability to challenge  
20 any of those actions like that. We still don't really know  
21 exactly what the police department would do in that respect,  
22 whether they would seek those kinds of remedies or not. We  
23 have to see what they order. I know you have a familiarity  
24 with how the police department works and I know you have  
25 experience as an FOP attorney and I think that's great, but I

1 just don't think that we really know about that circumstance  
2 right now.

3 MR. GRACE: I would agree with you. The only thing I  
4 can tell you, as someone who's been doing this for as long as I  
5 have, historically the police department stands back and lets  
6 the criminal courts do what they are going to do. The officer,  
7 if he's fit for duty, meaning he has a driver's license and he  
8 has a FOID card and he's physically able to do his job, will be  
9 placed into the call-back unit.

10 I don't know if they'll ask him to leave in this case.  
11 They certainly could if they wanted to, I suppose, but I would  
12 profess -- or predict, I guess, is a better word -- that they  
13 would probably just put him in call back while this case is  
14 pending.

15 THE COURT: Well, I appreciate your candor and  
16 particularly with the issue of your agreement that we really  
17 don't know precisely what they would do, and I think from my  
18 perspective, you know, just as the police department might let  
19 the criminal courts do what the criminal courts are going to  
20 do, I need to do what the courts need to do to protect the  
21 community and assure appearance and enter a set of conditions  
22 that are appropriate and also that are fair to everybody. I'm  
23 sensitive to how others have been treated as well, not only in  
24 Virginia but in this jurisdiction, so I am going to require the  
25 condition that he not possess a firearm, destructive device, or

1 other weapon.

2 Let me turn back to Mr. Cooke. Have we covered all of  
3 the disputes right now between you, between the Government and  
4 Mr. Chwiesuik, as far as the release conditions?

5 MR. COOKE: I believe so. Yes, Your Honor.

6 THE COURT: All right. Mr. Grace, did you have  
7 anything else? If you wanted to address what I'm telling you  
8 I'm very inclined to do, which is a \$15,000 face amount on that  
9 unsecured bond, now would be your chance to do that.

10 MR. GRACE: Judge, I don't think that your inclination  
11 to increase the unsecured bond is an unreasonable position for  
12 the Court to take, so \$15,000 unsecured I think is okay.

13 THE COURT: Very well. So those are going to be the  
14 conditions. What I think we should do next, because we're  
15 going to enter this order, is I just need to check with  
16 pretrial services.

17 So refresh my memory. Who do we have on the line for  
18 pretrial services?

19 MS. CHAPMAN: Kathryn Chapman, Your Honor. Thank you.

20 THE COURT: Ms. Chapman, the question I have for you  
21 is this. Hearing our discussion today and being aware of the  
22 options available under the statute for release conditions, is  
23 there any particular release condition that you either heard  
24 the Court is about to impose or perhaps that we've not  
25 discussed that pretrial services wants to be imposed? Can you

1 please tell the Court?

2 MS. CHAPMAN: Yes, Your Honor. The only condition  
3 pretrial services would seek at this point to be added would be  
4 for the defendant to surrender his FOID card.

5 THE COURT: Yes, I understood that really to be a part  
6 of what we're talking about here in terms of firearms. I think  
7 that goes with not possessing a firearm. I think it goes with  
8 being in a residence where there are no firearms. Ms. Chapman,  
9 are you aware of whether there are firearms in the defendant's  
10 current residence?

11 MS. CHAPMAN: Your Honor, yes, that is my  
12 understanding after speaking with the defendant.

13 THE COURT: All right. So just to be clear,  
14 Mr. Grace, this condition of not having weapons in that home  
15 does not mean that the weapons have to be surrendered to any  
16 authority. They just need to be stored someplace else, you  
17 know, privately or what have you.

18 So anything else, Ms. Chapman?

19 MS. CHAPMAN: No, Your Honor. Our office will go over  
20 the details of his surrender with the defendant after court  
21 today.

22 THE COURT: Okay. So I don't have anything else at  
23 this point. What I want to do is go through the conditions  
24 with Mr. Chwiesuik, and I'll go through them and ask him,  
25 Mr. Grace, whether he understands and agrees with them. I want

1 to make sure we do that. I'm assuming you have no objection to  
2 my doing that, so I'm going to ask him to answer yes or no to  
3 does he understand and agree.

4 MR. GRACE: No, Judge. I understand. That's fine.

5 THE COURT: Very well.

6 MR. COOKE: Your Honor --

7 THE COURT: I'm sorry. Who wishes to speak? I  
8 couldn't tell.

9 MR. COOKE: Your Honor, this is John Cooke for the  
10 United States. I apologize for interrupting.

11 THE COURT: It's fine. We don't have --

12 MR. COOKE: One thing I wanted to bring --

13 THE COURT: We don't have non-verbal communication  
14 here, and it's tough on the telephone. So I'll give you the  
15 same leeway that I give Mr. Grace. What did you want to tell  
16 the Court?

17 MR. COOKE: Yeah, there is one thing I wanted to add  
18 that falls sort of the under the rubric of conditions, Judge.  
19 I think we would ask that the defendant report to the district  
20 court for an initial -- the district court in the District of  
21 Columbia for an initial appearance on Wednesday, June 16th, at  
22 1:00 p.m. That appearance can take place by video, and I do  
23 have video instructions that I can share with the defendant's  
24 attorney.

25 THE COURT: Well, let me stop you for a second. Would

1     that be, would that be Judge Meriweather?

2             MR. COOKE: I'm not precisely sure whether it would be  
3     before the same judge who swore out the complaint, Judge.

4             THE COURT: Okay. That's right. Well, I think we  
5     don't know yet what courtroom or what judge it would be. I  
6     think we would know that it's in the District of Columbia. One  
7     of the mandatory release conditions is that the defendant  
8     appear in court as required, and we can specify in the order  
9     that that appearance is 1:00 o'clock p.m., June 16th, in the  
10    District of Columbia.

11            I don't want to require here or direct here that it be  
12    by video, but it's going to be in any manner as authorized by  
13    the District of the District of Columbia and Mr. Cooke. So  
14    that's something that the Government and Mr. Grace or any  
15    D.C.-based attorney would work out with the court.

16            How does that sound to you, Mr. Cooke?

17            MR. COOKE: Very good, Your Honor. Thank you.

18            THE COURT: Okay. Mr. Grace?

19            MR. GRACE: No objection.

20            THE COURT: All right. Anything else, Mr. Cooke? If  
21    there is, just let me know.

22            MR. COOKE: No, Judge. Thank you.

23            THE COURT: Okay. So I'm going to go through these  
24    conditions with you, Mr. Chwiesuik, and I'll just ask you if  
25    you understand and agree with them.



1           You must not violate any federal, state, or local law  
2 while on release. Do you understand and agree with that?

3           THE DEFENDANT: I understand, and I agree.

4           THE COURT: You must cooperate in the collection of a  
5 DNA sample if it's authorized by federal statute. You must  
6 advise the Court or the pretrial services officer or  
7 supervising officer in writing before you make any change of  
8 residence or telephone number. You have to appear in court as  
9 required, and if you're convicted, you have to surrender as  
10 directed to serve a sentence that the court may impose.

11           The next court appearance will be 1:00 p.m. in the  
12 District of District of Columbia as directed by the Court on  
13 the 16th of June of 2021, and you'll have to sign an appearance  
14 bond which we'll talk a little bit more about in a minute.

15           Those are what we refer to statutorily as the  
16 mandatory release conditions. Do you understand and agree with  
17 them, sir?

18           THE DEFENDANT: Yes, I do.

19           THE COURT: All right. So now I'm going to go through  
20 additional conditions of release. So you are going to be  
21 required to submit to supervision by and report for supervision  
22 to the U.S. Pretrial Services office as directed, and you will  
23 be required also to continue employment or actively seek it.  
24 Do you understand and agree with that, sir?

25           THE DEFENDANT: Yes.

1           THE COURT: You'll be required to surrender any  
2 passport that you have or may have to the U.S. Pretrial  
3 Services office and to not obtain a passport or other  
4 international travel document. Do you understand and agree  
5 with that?

6           THE DEFENDANT: Yes, I do.

7           THE COURT: Now there's a travel restriction in the  
8 order; that is, you are to abide by a restriction on your  
9 personal association, residence, or travel. The restriction is  
10 no travel outside of the Northern District of Illinois without  
11 prior approval of U.S. Pretrial Services, no travel outside of  
12 the United States without prior notification and approval from  
13 the U.S. District Court for the District of Columbia, and I  
14 will note that at least implicit in that restriction is if you  
15 have to travel in person to the District of Columbia for court  
16 appearances in this case, you'll be permitted to do that.

17           Do you understand and agree with that, sir?

18           THE DEFENDANT: Yes, I do.

19           THE COURT: You're further going to be required to not  
20 possess a firearm, destructive device, or other weapon. Do you  
21 understand and agree with that, sir?

22           THE DEFENDANT: Yes, yes, I do.

23           THE COURT: You're further required to not use alcohol  
24 excessively. Do you understand and agree with that?

25           THE DEFENDANT: Yes, I agree.

1           THE COURT: You're required to not use or unlawfully  
2 possess a narcotic drug or other controlled substances defined  
3 in Title 21 of the U.S. Code, section 802, unless prescribed by  
4 a licensed medical practitioner. Do you understand and agree  
5 with that, sir?

6           THE DEFENDANT: Yes, I understand.

7           THE COURT: An additional condition is that you report  
8 as soon as possible to pretrial services or the supervising  
9 officer every contact that you have with law enforcement  
10 personnel, including arrests, questioning, or traffic stops.  
11 I'll have a little more on that in a minute. Do you understand  
12 and agree with that, sir?

13          THE DEFENDANT: Yes, yes, I do.

14          THE COURT: I'm going to add for you, Mr. Chwiesuik,  
15 that I think it's understood in this case at least as of now  
16 you're assigned to Chicago Police Department desk duty and,  
17 therefore, you will have contact with law enforcement in your  
18 everyday capacity as a police officer on desk duty, and you  
19 will not have to report that. Instead, it would be any type of  
20 contact where you're arrested, you're questioned by police  
21 officers, or you're stopped by a police officer. That would  
22 include the Chicago Police Department, but it would not be  
23 within your conduct of your everyday job responsibilities.

24               Do you understand and agree with that, sir?

25          THE DEFENDANT: Yes.

1           THE COURT: Ms. Chapman, I just wanted to make sure  
2 that my caveat on that condition was stated to the satisfaction  
3 of pretrial services.

4           MS. CHAPMAN: Yes, Your Honor. Thank you.

5           THE COURT: Very well. So another condition, sir, is  
6 that you're required to stay away from Washington, D.C., during  
7 the pendency of the case unless for scheduled court  
8 appearances, meetings with U.S. Pretrial Services, or  
9 consultation with counsel. Do you understand and agree with  
10 that?

11          THE DEFENDANT: Yes, I do.

12          THE COURT: You are also required to participate in  
13 all future legal proceedings as directed. Do you understand  
14 and agree with that?

15          THE DEFENDANT: Yes, I understand and I agree.

16          THE COURT: Now, we covered earlier in the mandatory  
17 conditions that you must not violate any state, federal, or  
18 local law, but stated in the order is that you also shall not  
19 commit any state or federal crimes. Do you understand and  
20 agree with that, sir?

21          THE DEFENDANT: Yes, yes, I do.

22          THE COURT: Okay. I also am including in this order,  
23 as we discussed, a requirement that you surrender any FOID card  
24 that you possess. Do you understand and agree with that?

25          THE DEFENDANT: Yes, yes, I do.

1           THE COURT: And I'm also requiring that in the  
2 residence where you will be living, whatever that residence is,  
3 there are to be no firearms in that residence, and if there are  
4 any there now, they are to be removed to another location. Do  
5 you understand and agree with that, sir?

6           THE DEFENDANT: Yes.

7           THE COURT: All right. So I have a question for you,  
8 Mr. Chwiesuik, and that is in order to process the paperwork  
9 here. I want to know whether you would consent to Mr. Grace,  
10 your counsel, signing the release order and the appearance bond  
11 with your authority and his initials. If that is something  
12 you'd consent to -- and you don't have to -- it might make  
13 things move a little more quickly this afternoon, but it's up  
14 to you. Do you consent to him signing those documents for you,  
15 sir?

16          THE DEFENDANT: Yes, I do consent.

17          THE COURT: Okay. Let me just further tell you a  
18 couple things that I think we do need to cover because this is  
19 a removal matter. Okay? That is, I have reviewed the removal  
20 affidavit, and I've seen that the criminal complaint and the  
21 arrest warrant do appear to be true and correct and reliable  
22 electronic copies of the documentation from the District of  
23 Columbia. Under the rules, I would then be required to have  
24 you removed, although you're not being removed in custody  
25 because you're being released, and the case removed to the

1 District of Columbia.

2 But there is one other issue that we need to cover on  
3 that, and that is whether you wish to have a hearing on the  
4 issue of identity, in other words, whether you are the person,  
5 Karol Chwiesuik, who is charged in the District of Columbia  
6 proceedings. You have a right to contest that, or you can  
7 waive it.

8 So, Mr. Grace, can you tell me what your client's  
9 preference is on that issue?

10 MR. GRACE: Judge, our position on this would be that  
11 we acknowledge that we are Karol Chwiesuik.

12 UNIDENTIFIED SPEAKER: Under the conditions he is  
13 being release right now.

14 THE COURT: All right. I've got to tell you, I can  
15 really only hear one person talk at a time. I was recognizing  
16 Mr. Grace. I couldn't quite hear.

17 UNIDENTIFIED SPEAKER: I'm on the phone now.

18 THE COURT: Whoever is talking, you've got to mute  
19 yourself or stop talking because we can't do a court proceeding  
20 when you're doing that. It's a little like walking into court  
21 with a hearing going on and saying: Hello, I'm John Smith.

22 You wouldn't do that. So I think you're muted, and I  
23 appreciate that.

24 I'm sorry, Mr. Grace. I really couldn't hear you.  
25 What's your preference on the issue of identity?

1 MR. GRACE: So this is Tim Grace, Judge. Yes, so my  
2 position is that we acknowledge that we are Karol Chwiesuik,  
3 the person who has been charged with the crimes. Obviously we  
4 are not making any type of admission to any of the evidence of  
5 the complaint.

6 THE COURT: All right. What can you tell me about  
7 preliminary examination in terms of either a waiver or whether  
8 you would wish to have that held or reserve the issue for the  
9 District of Columbia, or whether you want to schedule a  
10 preliminary examination here in this court?

11 MR. GRACE: I believe -- Your Honor, this is Tim  
12 Grace. I believe that we would reserve that issue. I don't  
13 know if I will be the trial counsel on this matter. It's going  
14 to D.C., so I kind of believe that that decision possibly  
15 should be made by counsel in the District of Columbia.

16 THE COURT: All right. Let me tell you then that I'm  
17 going to go ahead and set a status hearing on the preliminary  
18 examination.

19 Ms. Harvey, can you give me a time on Friday of next  
20 week.

21 THE CLERK: Sure, Judge. One moment.

22 MR. GRACE: Your Honor, this is Tim. I don't want to  
23 interrupt you.

24 THE COURT: Yes.

25 MR. GRACE: Will we do the preliminary hearing here in

1 Chicago?

2 THE COURT: Let me finish. I think all of your  
3 questions will be answered.

4 MR. GRACE: Okay.

5 THE COURT: I'm sorry, Ms. Harvey. Can you give me a  
6 time for that?

7 THE CLERK: Yes, we can do 2:00 o'clock on Friday.

8 THE COURT: Okay. So, Mr. Grace, what you just told  
9 me about your client's preference on preliminary examination,  
10 if you'll forgive me, was a little bit equivocal. So what I  
11 want to do is I'm just going to set a preliminary hearing  
12 examination status, a status hearing at 2:00 o'clock next  
13 Friday. That should give you time with your client to figure  
14 what you'd like to do.

15 If your client decides that he wants to reserve  
16 everything for the District of Columbia, you can notify the  
17 Court of that by letter, and we will then proceed to reserve  
18 that for you and cancel the preliminary examination hearing  
19 status at 2:00 o'clock Friday. Does that work for you,  
20 Mr. Grace?

21 MR. GRACE: Yeah, that's a good idea, Judge. I  
22 appreciate that.

23 THE COURT: Okay. Absolutely. So I think we actually  
24 might be done this morning unless there's anything I missed.  
25 There is, I suppose, one thing. It's Rule 20. Rule 20



1 concerns transfer of the case. This is not an indicted case  
2 yet, right? It's charged by complaint.

3 But generally Rule 20 allows for transfer of the  
4 matter to the district of arrest, which is here, from the  
5 district of prosecution, which is the District of Columbia, if  
6 a bunch of conditions are satisfied, namely, if the defendant  
7 wishes to plead guilty or nolo contendere and waives trial in  
8 the District of Columbia. If he consents in writing to the  
9 Court's disposing of the case in the Northern District of  
10 Illinois and if he files that statement in the Northern  
11 District of Illinois and if the United States Attorneys in both  
12 districts approve the transfer in writing, then it could be  
13 transferred under Rule 20 to this Court. I think I am required  
14 under the rules to let you know that, but you are not required  
15 to respond to that in any way.

16 So finally, Mr. Cooke, anything else we need to cover  
17 today?

18 MR. COOKE: No. Thank you very much, Your Honor.

19 THE COURT: Mr. Grace, anything else we need to cover  
20 today?

21 MR. GRACE: No, sir. Thank you for your time.

22 THE COURT: All right. I thank counsel, and we're  
23 adjourned.

24 (Proceedings concluded.)

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C E R T I F I C A T E

I, Patrick J. Mullen, do hereby certify that the foregoing is an accurate transcript produced from an audio recording of the proceedings had in the above-entitled case before the Honorable GABRIEL A. FUENTES, one of the magistrate judges of said Court, at Chicago, Illinois, on June 11, 2021.

/s/ Patrick J. Mullen  
Official Court Reporter  
United States District Court  
Northern District of Illinois  
Eastern Division